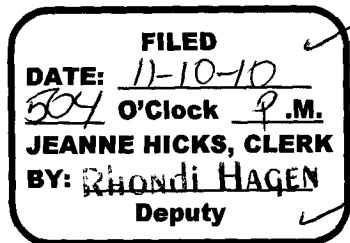


IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI



DIVISION PRO TEM B

JEANNE HICKS, CLERK

HON. WARREN R. DARROW

BY: R. Hagen, Deputy Clerk

CASE NO. V1300CR201080049

DATE: November 10, 2010

TITLE:

COUNSEL:

STATE OF ARIZONA,

Yavapai County Attorney
Sheila Polk/Bill Hughes/Steven Sisneros
(via OnBase),

(Plaintiff)

(For Plaintiff)

v.

JAMES ARTHUR RAY,

Thomas K. Kelly
(via electronic mail)
(Co-Counsel for Defendant)

(Defendant)

Luis Li/Brad Brian/Truc Do
MUNGER TOLLES & OLSON LLP
355 South Grand Avenue Thirty-Fifth Floor
Los Angeles, California 90071-1560,
(Co-Counsel for Defendant, *Pro Hac Vice*)

HEARING ON:	NATURE OF PROCEEDINGS	COURT REPORTER
ORAL ARGUMENT / EVIDENTIARY HEARING RE PENDING		Mina Hunt
MOTIONS – Day Two		

START TIME: 9:03 a.m.

TELEPHONIC APPEARANCES:

- Sheila Polk, Counsel for State
- Kathy Durrer, Assistant to Counsel for State
- Detective Ross Diskin, Case Agent
- Tom Kelly, Co-Counsel for Defendant
- Luis Li, Co-Counsel for Defendant
- Truc Do, Co-Counsel for Defendant
- Marian Seifter, Co-Counsel for Defendant

Defendant's appearance is waived.

The Court is advised that an application for Counsel Seifter to appear has been submitted by Defense Counsel.

Debra Mercer, previously sworn, resumes the witness stand for further testimony.

Counsel are advised that the Court reviewed the briefs regarding the scope of this hearing. In terms of the scope of this hearing, what has happened in the present matter is relevant and at this point sorting that out is somewhat difficult until the Court has an opportunity to review what the facts are and compare to prior acts.

~~~Recess~~~

At 9:43 a.m. the hearing reconvenes with all previously appearing parties present.

Debra Mercer resumes the witness stand for further testimony.

Counsel for State requests that Defense provide the State with line and page numbers when referring to prior statements. Discussion ensues. The Court will hear further evidence.

Debra Mercer resumes testifying.

The witness is admonished and excused for a recess.

~~~Recess~~~

At 11:09 a.m. the hearing reconvenes with all previously appearing parties present.

Debra Mercer resumes the witness stand for further testimony.

Exhibit 122 is marked. Oral argument ensues regarding playing excerpts of transcript and impeachment of the witness. Exhibit 123 is marked. The Court does not find it necessary to play the CD in open court. The Court will consider the evidence during its deliberation.

Exhibits 122 and 123 are offered and admitted into evidence.

Counsel Li plays portions of Exhibit 123.

The witness is admonished and excused for the noon recess.

~~~Noon Recess~~~

At 1:40 p.m. the hearing reconvenes with all previously appearing parties present.

Victoria Rock is sworn and testifies.

Counsel Kelly makes an objection as to relevance. Oral argument ensues. The Court allows the testimony.

The witness is admonished and excused.

~~~Recess~~~

At 3:35 p.m. the hearing reconvenes with all previously appearing parties present.

Mark Rock is sworn and testifies.

The Court asks Counsel for State to make offers of proof. Defense Kelly will not contest for purposes of this hearing.

Counsel Kelly moves the Court to obtain the papers that witness Mark Rock was reviewing in the hallway prior to testifying. Counsel for State objects. Argument ensues.

The Court examines the witness. The Court finds that Defense Counsel is entitled to review the notes that the witness used to prepare for testimony.

Cross examination resumes.

Exhibit 127 is marked.

Counsel discuss how to proceed to verify the notes the witness reviewed in preparation for testimony. Counsel for State voir dres the witness. Counsel Kelly will accept a photocopy of the notes the witness had reviewed.

The witness is admonished and excused.

Counsel present argument regarding the Defense's entitlement to the notes the witness reviewed as they contain personal notes. The Court wants the notes preserved at this time. The Court **finds** that Rule 15.1(g) is applicable subject to the witness's right to request a protective order on his notes. The Court instructs Counsel for the State to ask the witness in that regard. If the witness objects to turning over the notes, the Court desires the notes be preserved.

Counsel Li advises the Court regarding the State's change regarding calling Detective Diskin to testify reserves Defense's ability to call Detective Diskin to testify.

The Court and Counsel discuss State making offers of proof.

The Court will consider evidence and argument on the issue.

The Court confirms the continuation of the hearing on November 16th at 9:00 a.m.

END TIME: 5:04 p.m.

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)
Stone & Magnanini, Co-Counsel Brown Family, 150 John F Kennedy Pkwy, 4th Fl, Short Hills, NJ 07078
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)
Steptoe & Johnson, Counsel for KPNX Broadcasting Company (e)
Perkins, Coie, Brown & Bain, Counsel KTVK-TV, 2901 N. Central, Ste. 2000, Phoenix, AZ 85012-2788

Victim Services (e)
Division PTB (e)
Court Administration
Jeanne Hicks, Clerk of Court
Customer Service Supervisor, Verde